

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JOSILIN ALICIA VALDEZ,
Minor.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RUDY R. VALDEZ,

Respondent-Appellant.

UNPUBLISHED

March 25, 2004

No. 250248

Monroe Circuit Court

Family Division

LC No. 03-017327-NA

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Respondent appeals as of right from the trial court's order terminating his parental rights to the minor child under MCL 712A.19b(3)(b)(i) and (k)(ii). We affirm.

Respondent first argues that petitioner failed to prove a statutory ground for termination by clear and convincing evidence. We disagree. In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met by clear and convincing evidence. *In re Jackson*, 199 Mich App 22, 25; 501 NW2d 182 (1993). "Once a ground for termination is established, the court must issue an order terminating parental rights unless there exists clear evidence, on the whole record, that termination is not in the child's best interests." *In re Trejo*, 462 Mich 341, 354; 612 NW2d 407 (2000); MCL 712A.19b(5). We review the trial court's decision for clear error. *Id.* at 356-357.

Among the statutory grounds on which the court found that termination of respondent's parental rights was justified was MCL 712A.19b(3)(k)(ii). Termination under subsection (k)(ii) is appropriate if respondent abused Josilin or a sibling of Josilin and the abuse included criminal sexual conduct involving penetration, attempted penetration, or assault with intent to penetrate. MCL 712A.19b(3)(k)(ii). Josilin's half-sister, Taylor, gave direct testimony about respondent's alleged sexual abuse, which occurred once or twice a week for three years from approximately age eight to age eleven. The acts to which she testified clearly constituted criminal sexual conduct because they involved multiple types of penetration and the victim was under age thirteen when they occurred. See MCL 750.520b(1)(a). Given Taylor's testimony and the unique position of the trial court to judge her credibility, MCR 2.613(C), as well as the corroborating testimony and expert opinion testimony, we find that the trial court did not clearly

err in finding that petitioner established by clear and convincing evidence that respondent sexually abused Taylor, Josilin's half-sister, and the abuse involved criminal sexual conduct, including penetration and attempted penetration. Accordingly, petitioner established that termination was warranted under subsection (k)(ii).¹

Respondent next argues that the trial court erred because termination of his parental rights was clearly not in the child's best interests. We disagree. Although it is evident that a bond existed between respondent and Josilin, given respondent's history of serious sexual abuse of Josilin's half-sister and the significant risk of such future abuse to Josilin, we find that the evidence did not establish that termination of respondent's parental rights to Josilin was clearly not in her best interests. *In re Trejo, supra* at 354.

Based on this evidence we do not find that trial court clearly erred in terminating respondent's parental rights to Josilin.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Bill Schuette

¹ The trial court also terminated respondent's parental rights under MCL 712A.19b(3)(b)(i). However, respondent failed to provide any argument or authority in support of his claim that the evidence was insufficient to support termination under subsection (b)(i), and thus, he abandoned the issue. See *Mudge v Macomb Co*, 458 Mich 87, 105; 580 NW2d 845 (1998). Regardless, we note that the evidence also clearly established grounds for termination of respondent's parental rights under subsection (b)(i).